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6 Attorneys for Plaintiff
SUPER MICRO COMPUTER, INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 SUPER MICRO COMPUTER, INC., a
12 Delaware Corporation;

13 Plaintiff,

14 v.

15 PCPC DIRECT, LTD.; a Texas Limited
16 Partnership;

17 Defendant.

CASE NO.

COMPLAINT FOR:

1. BREACH OF CONTRACT;
2. ACCOUNT STATED (COMMON COUNT);
3. OPEN BOOK ACCOUNT (COMMON COUNT)
4. QUANTUM VALEBANT (COMMON COUNT)

(JURY TRIAL DEMANDED)

19 Plaintiff Super Micro Computer, Inc. ("Supermicro") alleges as follows:

20 **JURISDICTION AND VENUE**

21 1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332. The
22 amount in controversy exceeds \$75,000.00 and there is complete diversity between the parties.

23 2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) in that,
24 among other things, a substantial part of the events or omissions giving rise to the claims herein
25 occurred in this judicial district and defendant PCPC Direct, Ltd. ("PCPC Direct") consented to the
26 jurisdiction of this Court in the underlying agreements between the parties.
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1 **INTRADISTRICT ASSIGNMENT**

2 3. Assignment to the San Jose Division of this Court is appropriate under Local Rule
3 3-2(e).

4 **NATURE OF ACTION**

5 4. This action is brought to enforce the terms of an agreement between Supermicro and
6 PCPC Direct. PCPC Direct agreed to make payment for equipment provided by Supermicro.
7 Supermicro provided equipment but PCPC Direct failed to fulfill its payment obligations and, as a
8 result, Supermicro was forced to bring the present action.

9 **THE PARTIES**

10 5. Supermicro is a Delaware Corporation with its principal place of business in San
11 Jose, California.

12 6. Upon information and belief, PCPC Direct is a Texas limited partnership with its
13 principal place of business in Houston, Texas. PCPC GP, L.L.C. ("PCPC GP") is identified in
14 Texas state records as the General Partner of PCPC Direct. The members of PCPC GP are
15 identified in Texas state records as Cornelia Vaught and Joe Vaught who, on information and belief,
16 are both Texas residents. As a result, there is complete diversity between the parties for purposes
17 of 28 U.S.C. §1332.

18 **FACTS UNDERLYING THE CLAIMS FOR RELIEF**

19 7. Supermicro realleges paragraphs 1-6 as if set forth herein.

20 8. Supermicro is a leading provider of server and storage products.

21 9. Upon information and belief, PCPC Direct is a provider of data center solutions.

22 10. Beginning in 2018, PCPC Direct ordered equipment from Supermicro. The terms
23 of PCPC Direct's purchases are governed by the Supermicro standard terms and conditions (the
24 "Supermicro Terms") a copy of which is attached as Exhibit A.

25 11. Supermicro provided PCPC Direct with Supermicro equipment. PCPC Direct failed
26 to make required payments for the equipment it received.

27 12. Supermicro is now owed \$1,376,321.64, not including interest, by PCPC Direct.

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1 **FIRST CLAIM FOR RELIEF**

2 (Breach of Contract)

3 13. Supermicro realleges paragraphs 1-12 as if set forth herein.

4 14. The Parties entered into a valid and enforceable contract for the purchase of
5 Supermicro products (the "Contract").

6 15. Supermicro performed all of the conditions, covenants and obligations required of
7 it under the Supermicro Terms except to the extent that such performance was prevented, waived
8 or excused by PCPC Direct's conduct.

9 16. PCPC Direct breached the Contract by the acts herein alleged.

10 17. PCPC Direct's breaches of the Contract have proximately caused harm and damage
11 to Supermicro in an amount in excess of \$1,376,321.64 to be proven at trial.

12 WHEREFORE, Supermicro prays for judgment as set forth below.

13 **SECOND CLAIM FOR RELIEF**

14 (Account Stated (Common Count))

15 18. Supermicro realleges paragraphs 1-17 as if set forth herein.

16 19. As described above, there is now owing an account stated in writing between
17 Supermicro and PCPC Direct in the amount of \$1,376,321.64.

18 20. Neither all nor part of that sum has been paid, although demand has been made. As
19 a result, there is now due, owing and unpaid the sum of \$1,376,321.64, with interest as allowed by
20 law.

21 WHEREFORE, Supermicro prays for judgment as set forth below.

22 **THIRD CLAIM FOR RELIEF**

23 (Open Book Account (Common Count))

24 21. Supermicro realleges paragraphs 1-20 as if set forth herein.

25 22. Within the past four years, PCPC Direct became indebted to Supermicro on an open
26 book account for money due in the sum of \$1,376,321.64 which PCPC Direct agreed to pay.

27 23. The sum has not been paid although a demand therefor has been made, and there is
28 now due, owing and unpaid the sum of \$1,376,321.64 with interest as allowed by law.

1 **FOURTH CLAIM FOR RELIEF**
2 (Quantum Valebant (Common Count))

3 24. Supermicro realleges paragraphs 1-23 as if set forth herein.

4 25. As described above, Supermicro provided products to PCPC Direct in accordance
5 with the Contract and at PCPC Direct's request. PCPC Direct promised to pay the reasonable value
6 and accepted and used the products. Supermicro provided these products and services in the good
7 faith belief it would be paid for the products. PCPC Direct, in turn, benefitted from the products.
8 Supermicro is entitled to the fair and reasonable value of the products and services.

9 26. Supermicro requested payment for the products and services through invoices sent
10 to PCPC Direct. The fair and reasonable value of the products and services is \$1,376,321.64.

11 27. No payment has been made and there is now owing the amount of \$1,376,321.64,
12 with interest as allowed by law.

13 **PRAYER FOR RELIEF**

14 WHEREFORE Supermicro prays for judgment against PCPC Direct as follows:

- 15 1. For damages according to proof at trial, with interest as allowed by law;
16 2. For pre and post judgment interest on the damages according to proof;
17 3. For costs of suit including reasonable attorneys' fees;
18 4. For such other and further relief as this Court deems just and proper.

19 Dated: September 22, 2020

 BIALSON, BERGEN & SCHWAB
 A Professional Corporation

21 By: /s/ Thomas A. Burg
22 THOMAS A. BURG
23 Attorneys for Plaintiff
24 SUPER MICRO COMPUTER, INC.
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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff Super Micro Computer, Inc.
hereby demands a jury trial on all issues triable by a jury.

Dated: September 22, 2020

BIALSON, BERGEN & SCHWAB
A Professional Corporation

By: /s/ Thomas A. Burg
THOMAS A. BURG
Attorneys for Plaintiff
SUPER MICRO COMPUTER, INC.